It should be observed that knowledge by the wife, or circumstances from which knowledge may be imputed to her, that credit has been or may be extended by reason of the fact that the husband holds the title to the property, is essential to the estoppel. In accordance with this principle, it was held in *De Berry* v. *Wheeler*, 128 Mo. 84, 49 Am. St. Rep. 538, that a creditor of the husband could not appeal to the doctrine where property had been purchased with the funds of the wife, and title thereto taken in the name of the husband by mistake, the parties agreeing at the time of the discovery of the mistake that it should be subsequently corrected, even though the credit was extended upon the faith of the ownership of the husband as it appeared of record, it not being in evidence that the wife knew that credit was so extended, and there being no circumstances in the case from which the inference that she had such knowledge might be drawn. "It must be conceded," says the court, that the wife "by permitting the record title to the land to remain in her husband, represented to the public that her husband was the owner of it. Yet in this alone, no one could be defrauded. The fraud and consequent estoppel would only exist when she knew, or from all the circumstances ought to have known, that others, relying upon what she permitted the record to tell them, were dealing, or might deal with the husband in such a manner as to cause them to alter their previous condition to their injury."

ACKNOWLEDGMENT TAKEN AND CERTIFIED BY A STOCKHOLDER OF CORPORATION MORTGAGEE OR GRANTEE.—The effect of the acknowledgment of a conveyance before a stockholder of a corporation interested in the conveyance was considered in the recent case of *Wilson* v. *Griess*, (1902),—Neb. —, 90 N. W. Rep. 866. The conveyance was a mortgage of the homestead, not given, however, directly to the corporation (a bank) whose stockholder was the officer before whom the mortgage was acknowledged, but to another bank. The debt secured was one in which both banks were interested, and that one whose stockholder took the mortgagor's acknowledgment was also owner of stock in the mortgagee. The court considered the stockholder's interest sufficient to disqualify him from taking the acknowledgment and held the mortgage void, since an acknowledgment is essential to the validity of a mortgage of the homestead.

Corporations that permit their stockholders to take acknowledgments are generally the sufferers in such cases, for the question most frequently arises when the corporation is mortgagee; and where an acknowledgment is essential to the validity of the mortgage—as it is in many states where the property mortgaged is a homestead—the mortgage is void when a stockholder of the corporation-mortgagee takes the acknowledgment: *Haynes* v. *Southern Home, etc. Ass'n.*, 124 Ala. 663, 82 Am. St. R. 216; or is at least invalid as to the homestead interest or estate: *Ogden Bldg. Ass'n.* v. *Mensch*, 196 Ill. 554. But as such a conveyance is not void on its face—the interest of the certifying officer not being apparent—it has been held valid for all purposes until it has been cancelled in some direct proceeding brought for the express purpose of having the conveyance adjudged void, *Monroe* v. *Arthur*, 126 Ala. 362, 85 Am. St. R. 36, and its invalidity cannot be shown in an action of ejectment by the mortgagor against the corporation-mortgagee after pur-

chase by the latter at foreclosure sale under the mortgage: *National Bldg. & Loan Ass'n.* v. *Cunningham*, 130 Ala. 539.

Where the instrument is not one to whose validity an acknowledgment is essential, the corporation, mortgagee or grantee, may lose the advantage to be gained from the recording of the instrument, for the record of an instrument so acknowledged affords no notice. *Smith* v. *Clark*, 100 Ia. 605; *Kothe* v. *Krag-Reynolds Co.*, 20 Ind. Ap. 293.

Contrary to the foregoing cases are *Cooper* v. *Hamilton*, 97 Tenn. 285, 33 L. R. A. 338, 56 Am. St. R. 795, and *Bank* v. *Hove*, 45 Minn. 40, the former holding that the mortgage of a homestead, acknowledged before a stockholder of the corporation-mortgagee, is valid, and the latter that a chattel mortgage so acknowledged is entitled to record so as to afford notice to a subsequent mortgagee. In *Ogden Bldg. Ass'n.* v. *Mensch*, 196 Ill. 554, it is held, that the disqualifying interest not apppearing on the face of the mortgage, its record is constructive notice of the mortgage to the extent to which it is a lien.

In some states recent statutes authorize stockholders, otherwise qualified, to take acknowledgments in such cases. Minn. Gen. L. 1899, Ch. 62; N. Dak. Co. 1899, § 3593a.

CONSTITUTIONAL LAW—POWER OF THE LEGISLATURE TO ABRIDGE THE AUTHORITY OF COURTS TO PUNISH FOR CONTEMPT.—An interesting question of great importance was recently decided by the supreme court of Oklahoma. *Smith* v. *Speed*, (1901),—Okla.—, 66 Pac. Rep. 511, 55 L. R. A. 402. The organic act of the Territory, after the manner of the constitutions of the States, distributed the powers of government into the three departments—legislative, judicial and executive, and provided that the judicial power of the Territory should be vested in a supreme court, district courts, etc. In 1895, the legislature passed an act by which it attempted to divide contempts of court into two classes—direct and indirect. Direct contempts were to be those committed during the session of the court and in its immediate view and presence, while indirect contempts should consist of wilful disobedience of any process or order, or wilful resistance to the execution of any such process or order. It was then provided that in the case of such an indirect contempt, the person charged should be entitled to written charges, and a reasonable time for defense, "and the party so charged shall, upon demand, have a change of judge, or venue, and a trial by jury."

In a proceeding for contempt for violating an order of the court, the party charged demanded, under this statute, a trial by jury, but the application was refused, and the court proceeded to try, find guilty and punish, without reference to the statute. On appeal from this order, it was held that the statute in question attempted to deprive the courts of a portion of their inherent judicial powers, without which they could not exist and perform their constitutional functions, and that the statute was therefore unconstitutional and void. The court cited and relied upon *Carter* v. *Commonwealth*, 96 Va., 791, 32 S. E. 780, 45 L. R. A. 310; *Hale* v. *State*, 55 Ohio St. 210, 45 N. E. 199, 36 L. R. A. 254, 60 Am. St. Rep. 691; *Bradley* v. *State*, 111 Ga. 168, 36 S. E. 630, 50 L. R. A. 691, 78 Am. St. Rep. 157, where similar statutes were held to be invalid for similar reasons. With respect of the Circuit and District courts of the United States, however, which derive their jurisdiction from the